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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/054,602	04/03/98	SMITH	D 74311ACFR

IM22/0924

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EXAMINER	REDDICK, M
ART UNIT	1713
PAPER NUMBER	4

DATE MAILED: 09/24/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No. 09/054,602	Applicant(s) SMITH ET AL
Examiner Judy M. Reddick	Group Art Unit 1713

Responsive to communication(s) filed on 04/03/98 & 08/24/98

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-5 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-5 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

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DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recited "the carboxylic acid containing monomer is ----- acrylic monomers, monoalkyl itaconates, monoalkyl maleates styrenecarboxylic acid" per the claim supra constitutes indefinite subject matter as per it not being readily ascertainable as to how said species further limit the antecedently recited "carboxylic acid containing monomer". Further the "styrenecarboxylic acid" engenders non-art recognized subject matter as a monomer and as a further species of the antecedently recited genus.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

4. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative,

under 35 U.S.C. 103(a) as obvious over Stamberger(U.S.3,068,185).

Stamberger discloses and exemplifies processes which basically involve polymerizing ethylenically unsaturated monomer(s) which includes (meth)acrylic acid in the presence of an aqueous dispersion of clay(governed by particle sizes falling within the scope of the claims) and other conventional additives which include water-soluble salts, etc. See, e.g., cols. 2-6, Runs V and VI and the claims of Stamberger. Stamberger therefore anticipates the instantly claimed invention.

While Stamberger may not recognize, at least as far as the Examiner can readily ascertain, the formation of stable monomer droplets in the aqueous phase, as claimed, it is the base presumption that the Runs of Stamberger meet this limitation since the Runs of Stamberger are essentially the same as the claimed process. Consult Best et al(195 USPQ 430).

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative,

under 35 U.S.C. 103(a) as obvious over McNeil(U.S.5,089,295).

McNeil discloses and exemplifies processes for the preparation of polymers which comprises a free-radical suspension polymerization of a monomer phase comprised of at least two monomers which include styrene, n-butyl methacrylate, (meth)acrylic acid, etc. and an initiator and an aqueous phase comprised of magnetite, inorganic salts such as nitrites, chlorides,

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phosphates, nitrates, etc. and other optional components wherein stable monomer droplets in the aqueous phase are formed. See, e.g., the Abstract, col. 1, lines 50-56, col. 6, lines 1-68, col. 7, lines 51-68, col. 8, lines 1-68, cols. 9-17 and Runs III and IV of McNeil. McNeil therefore anticipates the instantly claimed invention with the understanding that one of ordinary skill in the art would have readily envisioned the use of a carboxylic acid containing monomer in lieu of or in addition to the n-butyl methacrylate monomer following the guidelines of McNeil at col. 11, lines 46-65.

8. Note the attached FORM PTO-892 for additional prior art cited as of being illustrative of the general state of the art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (703) 308-4346.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (703) 308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5885.

JMR *JMR*

09/15/99

J. M. Reddick
Judy M. Reddick

Primary Examiner

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